

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF:)
COMPLAINT (2014-159)

Salvatore Arzillo,)
Respondent.)

DECISION AND ORDER

State Ethics Commission,)
Complainant.)

STATE ETHICS
COMMISSION

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RECEIVED

This matter comes before the State Ethics Commission ("Commission") by virtue of a complaint filed by the Commission on June 12, 2014. On September 17, 2014, pursuant to S.C. Code Ann. § 8-13-320(10)(i)(Supp. 2011), the Commission reviewed the above-captioned complaint charging the Respondent, Salvatore Arzillo ("Respondent"), with one violation of Section 8-13-1140 and probable cause was found.

Present at the hearing on April 22, 2015 were Commission Members James I. Warren, III, Chair, Twana N. Burris-Alcide, and Regina H. Lewis. Respondent was not present, although he was duly noticed. Complainant was represented by Michael R. Burchstead, Commission General Counsel. The following charges were considered:

COUNT ONE
FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

The Respondent, Salvatore Arzillo, a member of Hardeeville Town Council, did in Richland County, fail to timely file a 2013 annual Statement of Economic Interests form on or before April 15, 2013 in violation of Section 8-13-1140.



FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent, Salvatore Arzillo, was at all relevant times, a member of Hardeeville Town Council. He was required to file an annual Statement of Economic Interests ("SEI") form for the 2013 year, which was due on April 15, 2013.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified about the efforts of Commission staff to get Respondent in compliance prior to the necessity of filing a complaint. On March 12, 2014, Commission staff sent a letter assessing \$100.00 penalty and notice of accruing penalties for the SEI mailed to Respondent's address of record with the Commission. This letter was returned as unclaimed, and on March 19, 2014 the March 12 letter was remailed to Respondent at a different address. On April 18, 2014, the penalty letter was sent certified and U.S. Postal Service records show that it was confirmed delivered to the Respondent.

3. On May 9, 2014, the penalties against the Respondent began accruing at \$10 per day. On May 19, 2014, the penalties begin accruing at \$100 per day.

4. Commission Investigator Dan Choate testified about his efforts to get Respondent in compliance after the filing of the complaint. On June 24, 2014, Investigator Choate left a message with the Hardeeville Town Clerk in an effort to contact Respondent. On June 30, 2014, Investigator Choate spoke to Respondent by telephone about the complaint and the accruing penalty. Respondent stated in this conversation that he had received the penalty letter from the Commission. Respondent stated to Investigator Choate that he would comply and he did comply that same day.



5. Commission Investigator James Bagnall testified of the extra efforts he made in several days prior to the hearing to ensure Respondent received the Notice of Hearing. According to Investigator Bagnall, he took these efforts because the Notice of Hearing was not signed for by Respondent himself, and it was unclear who the person who signed for the notice was in relation to Respondent. Investigator Bagnall testified that he made several telephone calls and eventually spoke to Respondent's wife, informing her of the reason for the call. Respondent's wife stated that she would tell Respondent to return Investigator Bagnall's call. Respondent never returned the call and he did not appear at the hearing.

6. The outstanding penalty for the late SEI is \$4,400.00.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent was a public official, as defined by Section 8-13-10)(27).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Sections 8-13-1110 and 8-13-1140 provide that certain public officials shall be required to file an SEI at the time of assuming the duties of the office and annually thereafter by April 15.¹
4. Section 8-13-1510 provides in part:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

¹ Section 8-13-1140 presently contains a deadline of March 30 to file an annual SEI. However, at the time of this violation, the deadline was April 15, as the law was amended by 2013 Act No. 61, effective July 3, 2013.



(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

5. Section 8-13-130 provides that the Commission "may levy an enforcement or administrative fee on a person who is found in violation" of any provision of the Ethics Act of 1991.

6. Section 8-13-320(10)(l)(i) provides that the Commission may "require[e] the public official...to pay a civil penalty of not more than two thousand dollars for each violation" of the Ethics Act of 1991.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based on a preponderance of evidence that Respondent Salvatore Arzillo has violated Section 8-13-1140 for failure to file an SEI by April 15, 2013, and therefore Respondent Salvatore Arzillo is hereby Publicly Reprimanded and he is assessed a fine of \$1,000.00, in addition to the late-filing penalty of \$4,400.00, and an administrative fee of \$500.00.

IT IS FURTHER ORDERED that the late-filing penalty, fine, and administrative fee, the total amount of which is \$5,900, shall be paid with thirty (30) days from receipt of the signed order.

AND, pursuant to Section 8-13-320, if the full money due to the Commission is not paid within the thirty (30) days as specified herein, a judgment in the amount of \$5,900.00 shall be



entered against Respondent. Upon the Commission's filing of said Judgment with the Clerk of Court's Office of the County in which Respondent was last known to reside, the Clerk of Court shall enter this Order in the amount of \$5,900.00 in its Judgment Rolls, without cost to the State Ethics Commission.

FINALLY, Respondent Salvatore Arzillo has ten (10) days from receipt of this Order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 29th DAY OF MAY, 2015

STATE ETHICS COMMISSION


JAMES I. WARREN, III
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA